

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

STEVEN H. ANDERSON,

Defendant-Appellant.

UNPUBLISHED

April 3, 2001

No. 220088

Ionia Circuit Court

LC No. 99-011404-FH

Before: Talbot, P.J., and Sawyer and F.L. Borchard*, JJ.

PER CURIAM.

Defendant appeals as of right from his conviction of assault of a prison employee, MCL 750.197c; MSA28.394(3), entered after a jury trial. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Defendant, an inmate in the custody of the Michigan Department of Corrections, was charged with assault of a prison employee following an altercation in which he struck complainant, a corrections officer, in the face with his fist. At trial, the evidence showed that complainant and another officer intervened to break up a fight between defendant and another inmate. Complainant and another officer testified that after the other inmate was restrained, defendant looked directly at complainant and then struck him in the face. Complainant stated that defendant was wearing his glasses when the incident occurred. Defendant testified that his glasses were knocked off his head during the fight with the other inmate. Defendant acknowledged that he knew that complainant was a corrections officer, and that it was possible that he made some contact with him during the incident. He denied intentionally striking complainant. The jury found defendant guilty as charged.

Defendant asserts that the jury's verdict was against the great weight of the evidence. His failure to move for a new trial on this ground has waived appellate review of this issue. *People v Winters*, 225 Mich App 718, 729; 571 NW2d 764 (1997). Defendant's argument on appeal actually goes to the sufficiency of the evidence. In reviewing a sufficiency of the evidence question, we view the evidence in a light most favorable to the prosecution to determine whether a rational trier of fact could conclude that the elements of the offense were proven beyond a reasonable doubt. We do not interfere with the jury's role of determining the weight of the

* Circuit judge, sitting on the Court of Appeals by assignment.

evidence or the credibility of witnesses. *People v Wolfe*, 440 Mich 508, 514-515; 489 NW2d 748 (1992), amended 441 Mich 1201 (1992). A trier of fact may make reasonable inferences from evidence in the record, but may not make inferences completely unsupported by any direct or circumstantial evidence. *People v Vaughn*, 186 Mich App 376, 379-380; 465 NW2d 365 (1990).

To support a conviction of assault of a prison employee, the prosecution must show that the defendant: (1) was lawfully imprisoned; (2) used violence, threats of violence, or dangerous weapons to assault a staff member; and (3) knew that the victim was a staff member. MCL 750.197c; MSA 28.394(3); *People v Williams*, 173 Mich App 312, 318; 433 NW2d 356 (1988). The lawfulness of a defendant's confinement may be inferred from the fact of imprisonment. *People v Neal*, 233 Mich App 649; 592 NW2d 95 (1999). This offense is a specific intent crime. *People v Norwood*, 123 Mich App 287, 295; 333 NW2d 255 (1983).

Defendant's position on appeal is properly framed as one in which he argues that the evidence was insufficient to support his conviction. We disagree and affirm defendant's conviction. From the undisputed evidence that defendant was imprisoned, the jury could infer that he was lawfully confined. *Neal, supra*. Several witnesses testified that defendant struck complainant in the face with his fist. Complainant testified that defendant was wearing his glasses at the time of the incident. Complainant and another witness testified that defendant looked directly at complainant before striking him. The jury was entitled to find this testimony credible. *People v Marji*, 180 Mich App 525, 542; 447 NW2d 835 (1989). This testimony from complainant and the other witness, coupled with defendant's acknowledgment that he knew that complainant was a corrections officer, supported an inference that defendant had the requisite specific intent to assault a prison employee. *People v Beaudin*, 417 Mich 570, 575; 339 NW2d 461 (1983). Viewed in a light most favorable to the prosecution, the evidence was sufficient to support defendant's conviction of assault of a prison employee. *Wolfe, supra*.

Affirmed.

/s/ Michael J. Talbot
/s/ David H. Sawyer
/s/ Fred L. Borchard